

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

AMENDED FINAL AGENCY ORDER O-08-004

**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF NATIONWIDE
INSURANCE COMPANY OF AMERICA,**

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Nationwide Insurance Company of America (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated March 30, 2007 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. On or about July 27, 2007, the Commissioner entered Final Agency Order O-08-004 pursuant to the Report.
2. The Commissioner hereby rescinds the Final Agency Order and amends the Final Agency Order as set forth below.
3. At all relevant times, the Respondent was a corporation licensed by the Division to conduct all lines of property and casualty insurance.
4. In accordance with §§ 10-1-201 to 207, C.R.S., on March 30, 2007, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2005 to December 31, 2005.
5. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
6. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners'

handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners' handbook. The Commissioner also employed other guidelines and procedures that she deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

7. The market conduct examiners prepared the Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
8. Respondent delivered to the Division written submissions and rebuttals to the Report.
9. The Commissioner has fully considered and reviewed the Report, any and all of Respondent's submissions and rebuttals, and all relevant portions of the examiners' work papers.

CONCLUSIONS OF LAW AND ORDER

10. Unless expressly modified in this Amended Final Agency Order (the "Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
11. Issue A concerns the following violation: Failure to include some forms in use on the annual forms certification list. The Respondent shall provide evidence that it has filed a complete annual certification that includes all forms currently being used and has implemented the necessary procedural changes to ensure compliance with Colorado insurance law.
12. Issue B concerns the following violation: Failure to provide surcharge notices and related documentation for examination. The Respondent shall provide evidence that it has reviewed its procedure for record maintenance and implemented the necessary changes to ensure compliance with Colorado insurance law.
13. Issue C concerns the following violation: Failure, in some cases, to comply with Colorado insurance law when non-renewing a policy. The Respondent shall provide evidence that it has reviewed its procedures for canceling or non-renewing existing policies and has implemented procedural changes to ensure compliance with Colorado insurance law.
14. Issue D concerns the following violation: Failure, in some cases, to state a sufficiently clear and specific reason for non-renewal of a policy. The Respondent shall provide evidence that it has implemented the necessary changes to its non-renewal notifications to ensure compliance with Colorado insurance law.

15. Issue E concerns the following violation: Failure to provide insureds with a notice of premium increase. The Respondent shall provide evidence that it has revised its procedure to ensure that a certified surcharge notification form is sent to all policyholders where a premium increase is evident at renewal in compliance with Colorado insurance law.
16. Issue F concerns the following violation: Failure to provide a complete disclosure of the provisions of the unfair or discriminatory trade practices law to beneficiaries or claimants within three (3) business days after a claim is made. The Respondent shall provide evidence that it has reviewed its claims handling procedures to ensure that the provisions of the unfair or discriminatory trade practices law are provided to beneficiaries or claimants within three (3) business days after a claim is made in compliance with Colorado insurance law.
17. Pursuant to § 10-1-205(3)(d), C.R.S., Respondent shall pay a civil penalty to the Division in the amount of thirty-eight thousand five hundred and 00/100 dollars (\$38,500.00) for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division Bulletin No. B-1.3, originally issued on January 1, 1998, re-issued May 8, 2007.
18. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits with the Division executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.
19. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All self audits, if any, shall be performed in accordance with the Division's document, 'Guidelines for Self Audits Performed by Companies' presented at the market conduct examination exit meeting. Unless otherwise specified in this Order, all self audit reports must be received within ninety (90) days of the Order, including a summary of the findings and all monetary payments to covered persons.
20. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms

of this Order may result in additional actions, penalties and sanctions as provided for by law.

21. Copies of the examination report, the Respondent's response, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the Report dated March 30, 2007, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 24th day of August, 2007.



Marcy Morrison
Commissioner of Insurance

CERTIFICATE OF CERTIFIED MAILING

I hereby certify that on the 24th day of August, 2007, I caused to be deposited the **AMENDED FINAL AGENCY ORDER No. O-08-004 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF NATIONWIDE INSURANCE COMPANY OF AMERICA**, in the United States mail via certified mailing with proper postage affixed and addressed to:

Mr. Kirt A. Walker, President
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Columbus, OH 43215

Ms. Lorraine Diaz-Richardson, Market Conduct Analyst
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